

Appl. No.: 10/567,768  
Amdt. dated July 28, 2009  
Reply of Office action of April 28, 2009

Docket No. MAC-11036

## **REMARKS**

Claims 1, 5, 6, 10, 11, 15, 16, 20, 21, 25, 26, 30 and 31 are currently pending in the application. Applicants have amended claim 1. Applicants request reconsideration of the application in light of the following remarks.

### **Rejections under 35 U.S.C. §103**

To establish a *prima facie* case of obviousness under 35 U.S.C. §103, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Third, the cited prior art reference must teach or suggest all of the claim limitations. Furthermore, the suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based upon the Applicants' disclosure. A failure to meet any one of these criteria is a failure to establish a *prima facie* case of obviousness. MPEP §2143.

### **Claims**

Claims 1, 5, 6, 10, 21 and 25 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fiedlschuster (U.S. Patent No. 6,213,306, hereinafter "Fiedlschuster"), in view of Olivier (U.S. Patent No. 5,373,946, hereinafter "Olivier") and Tse (U.S. Patent No. 6,955,265, hereinafter "Tse"). Applicant respectfully traverses this rejection and requests reconsideration of the claims.

As currently amended, independent claim 1 includes, "recovering the component precipitated to the bottom of the precipitation by lifting up the component by means of a plurality of rotating plates attached around the inner wall of the precipitation tank and

allowing the lifted component to fall down into a recovering unit placed at a central portion of the precipitation tank." (underline added for emphasis.) The Examiner has indicated in the Office Action that Fiedlschuster and Oliver do not disclose this revering step and relies on Tse to teach such a step. Tse does not include a plurality of rotating plates attached around the inner wall of the precipitation tank. Rather Tse discloses a single piercing mechanism that is attached in one location, not around, within the screen assembly and pierces garbage bags during rotation of the screen assembly. Or in other words, Tse has a construction pulverizing the waste inserted in the separation tank by the bracket 32 attached to the plural needles 31. Further, the piercing mechanism of Tse does not disclose the lifting the component precipitated to the bottom of the precipitation and allowing the component to fall down into a recovering unit, rather Tse discloses a screen assembly wherein the screening hole sizes differ in size along the screen assembly and material is screened out of the contents within the screen assembly. Tse does not disclose a recovery unit that a plurality of rotating plates drops components into. Tse does not disclose the same structure and further does not disclose the same function of that structure. Accordingly, independent claim 1 is not obvious over Fiedlschuster in view of Olivier and Tse. Claim 1 is therefore allowable and Applicant respectfully requests that the obviousness rejections of claim 1 be withdrawn.

Claims 5, 6, 10, 21 and 25 depend from independent claim 1. Accordingly, 5, 6, 10, 21 and 25 are allowable for, among other reasons, depending from an allowable base claim.

Applicant respectfully requests that the obviousness rejections of claims 5, 6, 10, 21 and 25 be withdrawn.

Claims 11, 15, 16 and 20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fiedlschuster, in view of Olivier and Tse, and further in view of James et al. (U.S.

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Publication No. 2003/0213290, hereinafter “James”). Applicant respectfully traverses this rejection and requests reconsideration of the claims.

Claims 11, 15, 16 and 20 depend from claims that depend from independent claim 1. Accordingly, claims 11, 15, 16 and 20 are allowable for, among other reasons, depending from an allowable base claim.

Applicant respectfully requests that the obviousness rejections of claims 11, 15, 16 and 20 be withdrawn.

Claims 26, 30 and 31 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fiedlschuster, in view of Olivier and Tse, and further in view of Smith et al. (U.S. Patent No. 4,265,737, hereinafter “Smith”). Applicant respectfully traverses this rejection and requests reconsideration of the claims.

Claims 26, 30 and 31 depend from independent claim 1. Accordingly, claims 26, 30 and 31 are allowable for, among other reasons, depending from an allowable base claim.

Applicant respectfully requests that the obviousness rejections of claims 26, 30 and 31 be withdrawn.

### **Regarding Doctrine of Equivalents**

Applicants hereby declare that any amendments herein that are not specifically made for the purpose of patentability are made for other purposes, such as clarification, and that no such changes shall be construed as limiting the scope of the claims or the application of the Doctrine of Equivalents.

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**CONCLUSION**

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

If any fees, including extension of time fees or additional claims fees, are due as a result of this response, please charge Deposit Account No. 19-0513. This authorization is intended to act as a constructive petition for an extension of time, should an extension of time be needed as a result of this response. The examiner is invited to telephone the undersigned if this would in any way advance the prosecution of this case.

Respectfully submitted,

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